

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Kenneth Fox,	)	C/A NO. 3:10-2198-CMC-PJG
	)	
	)	
Plaintiff,	)	
	)	<b>OPINION and ORDER</b>
v.	)	
	)	
Food Lion LLC; Store #194; Store/Regional	)	
Manager, Owner/Manager Property	)	
5118 Fairfield Road,	)	
	)	
Defendants.	)	
_____	)	

This matter is before the court on Plaintiff's motion to "Reopen/Reconvene De Novo Review for Misrepresentation . . . ." Dkt. # 24 (filed Dec. 28, 2010). The court construes this motion as a motion to Alter or Amend the Judgment under Rule 59(e). *Dove v. CODESCO*, 569 F.2d 807, 809 (4th Cir. 1978) (holding that "if a post-judgment motion is filed within [twenty-eight] days of the entry of judgment and calls into question the correctness of that judgment it should be treated as a motion under Rule 59(e), however it may be formally styled.").

The Fourth Circuit Court of Appeals has interpreted Rule 59(e) to allow the court to alter or amend an earlier judgment "(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." *Becker v. Westinghouse Savannah River Co.*, 305 F.3d 284, 290 (4th Cir. 2002) (quoting *Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998)). "Whatever may be the purpose of Rule 59(e) it should not be supposed that it is intended to give an unhappy litigant one additional chance to sway the judge." *Atkins v. Marathon LeTourneau Co.*, 130 F.R.D.

625 (S.D. Miss. 1990).

Plaintiff's motion contends that his attempt to add Defendants Knight and Springer was an attempt to "be named to the suit as a 'splitting cause of action.'" Mot. at 2 (Dkt. #24, filed Dec. 28, 2010). Plaintiff also maintains that Defendant Douglas "was used as a 'link' for bringing on [sic] this suit against Food Lion and naming Rick Knight [and] Chad Springer as defendants." *Id.*

Notwithstanding this explanation, Plaintiff's motion to reopen this matter is merely an attempt to reargue an unsupported position, which has been rejected.

Plaintiff's motion to reopen is, therefore, **denied**.

**IT IS SO ORDERED.**

s/ Cameron McGowan Currie  
CAMERON MCGOWAN CURRIE  
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina  
December 29, 2010